IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1685 OF 2005
IN
SUMMONS FOR JUDGEMENT NO.763 OF 2003
IN
SUMMARY SUIT NO.814 OF 2003

Lloyd Insulations (India) Ltd. Plaintiff

versus

Synthetics and Chemicals Ltd. Defendant

Mr.K.B.Purohit for plaintiff

Mr.A.C.Mahimkar for defendant

CORAM : S.C.DHARMADHIKARI, J.

DATE : 27th June 2005

PC :

1. The summons for judgement taken out in the present suit was dismissed for want of prosecution by this Court on 26th April 2005.

2. In the affidavit in support it has been pointed out as to how the Clerk of the plaintiff's advocate missed the matter on the concerned date and neither the plaintiff's advocate nor the officer of the plaintiff could be informed about listing of the matter on the

board. No affidavit in reply is filed opposing the request made in the Notice of Motion.

3. Sufficient cause being pointed out for the absence of plaintiff's advocate at the hearing of Summons for Judgement, Notice of Motion is made absolute in terms of prayer clause (a). Summons for Judgement No.763 of 2003 restored to file.

4. Mr.Purohit as well as Mr.Mahimkar agree that the defendant company being before the AAIFR in a pending appeal, the summary suit and the summons for judgement cannot proceed unless the necessary sanction under section 22(1) of the Sick Industrial Companies Act is obtained. Leaving such liberty open to the plaintiff, the hearing of Summons for Judgement is adjourned sine die by consent. The defendant to file an affidavit periodically (every three months) setting out as to whether the said appeal is pending or disposed off. Copy of such affidavit should be served on the plaintiff's advocate. In the light of the fact that plaintiff's advocate was absent, the restoration of Summons for Judgement to file would be subject to payment of costs quantified at Rs.1,500/-.

(S.C.DHARMADHIKARI, J.)